



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0068; FRL-10000-53-Region 9]

Determination of Attainment by the Attainment Date; 2006 24-Hour Fine Particulate

Matter National Ambient Air Quality Standard; Pinal County, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to determine that the West Central Pinal County nonattainment area attained the 2006 24-hour national ambient air quality standard (NAAQS) for particulate matter with a diameter of 2.5 micrometers or smaller (PM_{2.5} or “fine particulate matter”) by December 31, 2017, the statutory attainment date for the area. This final action is based on the three-year average of annual 98th percentile 24-hour concentrations for the 2015-2017 period, using complete, quality-assured, and certified PM_{2.5} monitoring data.

DATES: This rule will be effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0068. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jerry Wamsley, EPA Region IX, (415) 947-4111, wamsley.jerry@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

Table of Contents

- I. Summary of the Proposed Action
- II. Public Comments and EPA Responses
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Summary of the Proposed Action

On April 25, 2019, the EPA proposed to determine that the West Central Pinal County nonattainment area attained the 2006 24-hour PM_{2.5} NAAQS by December 31, 2017, the statutory attainment date for the area.¹ Our proposed action is based on the three-year average of annual 98th percentile 24-hour concentrations for the 2015-2017 period, using complete, quality-assured, and certified PM_{2.5} monitoring data.

For an area classified as Moderate under the Clean Air Act (CAA), such as the West Central Pinal County PM_{2.5} nonattainment area, section 188(c) provides that the statutory attainment date is “as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment.” Therefore, the applicable attainment date for West Central Pinal County, designated nonattainment in 2011 and classified as Moderate in 2014, is attainment as expeditiously as practicable, but no later than December 31, 2017.²

¹ 84 FR 17368, (April 25, 2019).

² 79 FR 31566, 31569, fn 5.

Section 188(b)(2) of the CAA requires that the Administrator determine whether the state has attained the NAAQS in a nonattainment area by the applicable attainment date. Consequently, the EPA's proposed determination of attainment is pursuant to the Agency's statutory obligation, under CAA section 188(b)(2), to determine whether the West Central Pinal County nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by no later than December 31, 2017. Given this attainment date and the form of the 2006 24-hour PM_{2.5} NAAQS, the applicable 3-year data review period is calendar years 2015 to 2017.

Under 40 CFR part 50, § 50.13 and in accordance with appendix N, a nonattainment area meets the 2006 24-hour PM_{2.5} NAAQS when the area's design value is less than or equal to 35 micrograms per cubic meter (µg/m³). As discussed in detail in Section III of our proposal, the determination of whether an area's air quality meets the 2006 24-hour PM_{2.5} NAAQS is generally based upon three years of complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) in a nonattainment area and entered into the EPA's Air Quality System (AQS) database.³ Because we are determining attainment of the PM_{2.5} NAAQS as of December 31, 2017, the applicable 3-year data review period is 2015-2017. Ambient air quality data must generally meet data completeness or substitution requirements for each year under evaluation. The data completeness requirements are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.⁴ The state must submit data from ambient air monitors operated by state or local agencies in compliance with the EPA monitoring requirements to AQS. Monitoring agencies certify annually that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of areas.

³ AQS is the EPA's national repository of ambient air quality data.

⁴ 40 CFR part 50, appendix N, section 4.2(b).

The PM_{2.5} ambient air quality monitoring data collected within the West Central Pinal County nonattainment area for the 2015-2017 period must meet data completeness or substitution criteria according to 40 CFR part 50, appendix N. The ambient air quality monitoring data completeness requirements are met when quarterly data capture rates for all four quarters in a calendar year are at least 75 percent.⁵ For the purposes of our proposal, we reviewed the data for the 2015-2017 period for completeness and determined that the PM_{2.5} data collected by Pinal County met the completeness criterion for all 12 quarters at PM_{2.5} monitoring sites in the West Central Pinal County nonattainment area. The 2015 Cowtown data were complete, and the 2016 and 2017 Hidden Valley data, the relocated Cowtown monitoring site, were complete.⁶

The EPA's proposed determination as to whether the West Central Pinal County area has attained the PM_{2.5} NAAQS pursuant to CAA section 188(b)(2) was based on monitored ambient air quality data. The validity of this determination depends in part on whether the monitoring network adequately measures ambient PM_{2.5} levels in the nonattainment area. Pinal County, the local agency responsible for collecting PM_{2.5} data in the nonattainment area, submits annual monitoring network plans to the EPA. These plans describe the status of the air monitoring network, including monitor siting, as required under 40 CFR part 58. The EPA reviews these annual network plans for compliance with the applicable monitoring requirements in 40 CFR 58.10. With respect to PM_{2.5}, we have found that the annual network plans submitted by Pinal County meet the applicable requirements under 40 CFR part 58.⁷ Furthermore, we concluded in our "Technical Systems Audit Report" of Pinal County's ambient air quality monitoring program

⁵ 40 CFR part 50, appendix N, section 4.2(b)(2).

⁶ AQS Database, Combined Site Sample Values Report, dated March 28, 2019, included in our docket.

⁷ We have included in our docket the correspondence transmitting our annual network reviews, e.g., correspondence dated October 30, 2017, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District.

that the ambient air monitoring network currently meets or exceeds the requirements for the minimum number of monitoring sites designated as SLAMS for PM_{2.5} in the West Central Pinal County nonattainment area.⁸ Pinal County certifies annually that the data it submits to AQS are quality-assured and has done so for each year relevant to this determination of attainment, 2015-2017.⁹

Our proposal also discussed the EPA's review and approval of Pinal County's January 2016 relocation of the PM_{2.5} SLAMS monitoring site from the Cowtown location to a new location at Hidden Valley.¹⁰ Beginning in late 2013 and through 2015, Pinal County and the EPA engaged in a cooperative multi-year process to review alternative locations and relocate the Cowtown PM_{2.5} SLAMS monitoring site. Over the course of 2014 and 2015, Pinal County operated temporary monitors at two other potential replacement monitoring site locations (i.e., Hidden Valley; and White and Parker). This allowed Pinal County and the EPA to assess the data from each location and to determine if either of the proposed monitoring site locations met the applicable system modification requirements in 40 CFR 58.14 for monitoring site relocation. Based on an assessment of PM_{2.5} concentrations, land use, and nearby sources, the EPA approved the relocation of the Cowtown PM_{2.5} SLAMS monitoring site to the new Hidden Valley location.¹¹ The EPA stated in its Relocation Approval Letter that the data from the old and new

⁸ We have included in our docket the correspondence concerning our audit, e.g., correspondence dated September 28, 2016, from Elizabeth Adams, Acting Division Director, Air Division, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District.

⁹ We have included in our docket Pinal County's annual data certifications for 2015, 2016 and 2017, e.g., correspondence dated April 30, 2018, from Josh DeZeeuw, Air Quality Manager, Pinal County Air Quality Control District, to Elizabeth Adams, Acting Division Director, Air Division, EPA Region IX. Annual data certification requirements can be found at 40 CFR 58.15.

¹⁰ The site identification numbers are as follows: Cowtown (AQS ID: 04-021-3013); and, Hidden Valley (AQS ID: 04-021-3015).

¹¹ For a complete discussion of the EPA's review and approval of the Cowtown monitoring site relocation, refer to correspondence dated October 22, 2015, from Meredith Kurpius, EPA Region IX, to Michael Sundblom, Pinal County Air Quality Control District ("Relocation Approval Letter"), in the docket for this rulemaking.

monitoring site locations would be combined to form one continuous data record for design value calculations.¹² Consequently, the 2015-2017 design value is a composite data record consisting of 2015 data from the Cowtown monitoring site and 2016 and 2017 data from the relocated Cowtown site, now operating at Hidden Valley.

In summary, the EPA's evaluation of whether the West Central Pinal County nonattainment area has met the 2006 PM_{2.5} 24-hour NAAQS is based on our review of the monitoring data, the adequacy of the PM_{2.5} monitoring network in the nonattainment area, and the reliability of the data collected by the network, as discussed in detail in our proposal for this action. The data indicate that the 24-hour design value for the 2015-2017 period, 32 µg/m³, was less than or equal to 35 µg/m³, the 2006 PM_{2.5} 24-hour NAAQS. Therefore, the EPA proposed to determine, based upon three years of complete, quality-assured and certified data from 2015-2017, that the West Central Pinal County nonattainment area attained the 2006 24-hour PM_{2.5} NAAQS by the applicable outermost attainment date, December 31, 2017.

II. Public Comments and EPA Responses

The public comment period on the proposed rule opened on April 25, 2019, the date of its publication in the *Federal Register*, and closed on May 28, 2019. During this period, the EPA received one comment letter submitted by the Center for Biological Diversity (CBD). The CBD's comments are addressed below. A copy of their comment letter is included in the docket for this final action.

Comment #1: The EPA did not follow Federal regulations and erred in determining attainment of the 24-hour PM_{2.5} NAAQS over the 2015-2017 timeframe for two reasons. First, three years of annual data is needed at "each eligible monitoring site" to determine a design

¹² Id.

value. The Cowtown and Hidden Valley monitors constitute separate monitoring sites, and the EPA did not have three years of annual data at either site. Second, for a combined site data record, the monitoring sites must be collocated.¹³ Cowtown and Hidden Valley, however, are not collocated monitoring sites as defined by Federal regulations. Therefore, the EPA's calculated 2015-2017 design value was calculated incorrectly and is inconsistent with Federal regulations for developing design values from two separate monitoring sites.

Response #1: The EPA disagrees with the commenter's contention that combining the data from the two sites is not permitted under the Act and applicable Federal regulations. The EPA's monitoring regulations addressing "[s]ystem modification" contain a specific provision that allows for relocating an air quality monitoring site: "[a] SLAMS monitor not eligible for removal under any of the criteria in paragraphs (c)(1) through (c)(5) of this section may be moved to a nearby location with the same scale of representation if logistical problems beyond the State's control make it impossible to continue operation at its current site."¹⁴ By referring to "mov[ing]" a monitor, as opposed to "remov[ing]" it,¹⁵ the monitoring regulations allow for such monitors to be treated as a single site for design value calculation purposes.

As discussed in our proposal, in 2013 logistical problems beyond the State's control made it impossible for Pinal County to continue operation of the Cowtown monitor. From late 2013 through 2015, Pinal County and the EPA engaged in a cooperative multi-year process to review and evaluate alternative locations and to relocate the Cowtown PM_{2.5} SLAMS monitoring site, ultimately to the Hidden Valley monitoring site. Because Pinal County moved the Cowtown monitor in accordance with the appropriate EPA regulations and guidance, including a notice and

¹³ The CBD comment letter used the term "collated." We believe this term is incorrect given that the reference CBD cited was for the definition of "collocated," per 40 CFR part 50, appendix N, 1.0(c).

¹⁴ 40 CFR 58.14(c)(6).

¹⁵ See *id.*

opportunity for public comment, and the EPA approved the site relocation, it is appropriate to combine the data from before and after the relocation for the purpose of calculating valid design values. We review this monitor relocation effort in more detail below.

In 2013, the private landowners of the Cowtown monitoring site notified Pinal County that they would no longer allow the County's long-term use of their property for the monitoring site. In response, Pinal County negotiated a two-year lease extension to allow for continued data collection at the site while the County and the EPA worked to relocate the monitor appropriately according to Federal regulations and EPA guidance. Generally, the EPA interprets "nearby location with same scale of representation" to mean a nearby location that measures similar pollutant concentrations from similar emissions sources. In 2014, Pinal County initiated a special study to evaluate locations throughout the West Central Pinal County PM_{2.5} nonattainment area that would meet the EPA's monitor siting and relocation requirements, i.e., nearby locations with the same scale of representation.

Viable long-term monitoring locations in the immediate vicinity of the Cowtown monitor were not available. As a result, from June 2014 to June 2015, Pinal County conducted parallel ambient monitoring at two nearby locations with a similar source mix and proximity to sources as the Cowtown monitor: Hidden Valley; and White and Parker. The monitoring at the three different sites revealed that with respect to the 98th percentile PM_{2.5} value, the key value for 24-hour NAAQS design value calculations, the Cowtown monitors and the Hidden Valley monitor tracked closely (28.5 and 29.0 µg/m³ for the two Cowtown monitors, compared to 30.6 µg/m³ for the Hidden Valley monitor). The other candidate location, White and Parker, did not track as

closely (with a value of 24.9 $\mu\text{g}/\text{m}^3$), even though it was closer to the Cowtown monitors.¹⁶ The concurrent monitoring over a year at multiple monitoring sites demonstrates that the County was able to find another very similar site less than ten miles from the original site, thus satisfying the regulatory requirements for an air quality monitor relocation.

To conclude our review of this multi-year relocation effort, at Pinal County's request, the EPA evaluated the collected data and approved the relocation of the Cowtown monitoring site to the current Hidden Valley monitoring site location. The EPA determined that Pinal County met all applicable requirements of 40 CFR 58.14(c)(6) and specifically stated in our October 22, 2015 approval letter that "[a]s this is a relocation, the data from the old and new sites will be combined to form one continuous data record for design value calculations."¹⁷ The EPA notes that Pinal County's analysis and the EPA's approval letter were subject to public comment as part of Pinal County's 2017 annual network plan submission and that the County received no adverse comments.¹⁸ Because the transition from the Cowtown monitor to the Hidden Valley monitor constituted a relocation and was subject to the EPA's approval under 40 CFR 58.14(c)(6), it was appropriate for the EPA to use the old and new monitoring sites in calculating a design value for the West Central Pinal County nonattainment area.¹⁹

¹⁶ Moving the monitor to the nearest available site is not necessarily optimal, because the nearest available site may involve shifts in the most proximate land uses, may not be downwind from predominate sources, and may potentially underestimate concentration values. Instead, the EPA and the County had to balance proximity to the Cowtown site with keeping the site near a similar mix of land uses and local PM_{2.5} sources.

¹⁷ For a complete discussion of the EPA's review and approval of the Cowtown monitoring site relocation, refer to correspondence dated October 22, 2015, from Meredith Kurpius, EPA Region IX, to Michael Sundblom, Pinal County Air Quality Control District ("Relocation Approval Letter"), in the docket for this rulemaking.

¹⁸ Pinal County Air Quality Control District posted the draft 2017 Ambient Monitoring Network Plan and 2016 Data Summary, containing the EPA's approval of the site relocation on the department's website, and made the document available in the District's offices for a public comment period from May 19, 2017 through June 19, 2017.

¹⁹ The fact that, as the commenter points out, the two locations are assigned separate AQS ID numbers is not determinative of whether data from the two locations are appropriate for combination. In the Relocation Approval Letter, the EPA stated "As this is a relocation, the data from the old and new sites will be combined to form one continuous data record for design value calculations. *Please note this in the AQS comment field for both the old and*

The combination of data from two monitoring sites to calculate a valid design value following an approved relocation has been a longstanding and common EPA practice. The EPA's 2017 Design Value Report for PM_{2.5} shows 18 PM_{2.5} monitoring sites nationwide for which pre- and post-relocation monitors are linked for design value calculation purposes.²⁰ The design value reports for other pollutants show even more linked monitors.²¹

The EPA's longstanding practice of combining data from two monitoring sites when calculating a design value was explained in the recent 2015 Ozone (O₃) NAAQS revision. In that rulemaking, the EPA specifically codified the existing convention in 40 CFR part 50, appendix U, and explained that "although data handling appendices for previous O₃ standards do not explicitly mention site combinations, the EPA has approved over 100 site combinations since the promulgation of the first 8-hour O₃ NAAQS in 1997".²² The EPA explained, "the EPA's intention in proposing this addition was merely to codify an existing convention, and to improve transparency by implementing site combinations in AQS design value calculations."²³ The final rulemaking also noted that "[p]ublic commenters unanimously supported" the change in regulatory text and further clarified that "[s]ince this provision has already been used in practice under previous O₃ standards, site combinations will be applied to AQS design value calculations for both the revised O₃ standards and previous O₃ standards."²⁴ The EPA's preamble in the proposed rule for the 2015 Ozone NAAQS revision further expands on the EPA's rationale concerning site combinations and states that "[s]ite combinations may be approved by the

the new AQS site . . ." (emphasis added). Accordingly, the fact that the two locations were organized separately for data entry purposes does not mean that the data may not be combined for design value calculation purposes.

²⁰ https://www.epa.gov/sites/production/files/2018-07/pm25_designvalues_20152017_final_07_24_18.xlsx.

²¹ The 2017 Design Value Report for ozone shows 27 relocated sites linked for design value calculation purposes. https://www.epa.gov/sites/production/files/2018-07/ozone_designvalues_20152017_final_07_24_18.xlsx.

²² 80 FR 65292, 65411 (October 26, 2015).

²³ *Id.*

²⁴ *Id.*

Regional Administrator, after he or she has determined that the measured air quality concentrations do not differ substantially between the two sites.”²⁵ Although this specific rulemaking was for the 2015 ozone NAAQS, the EPA has used the same longstanding convention for PM_{2.5} site combinations, as described above. As with the ozone NAAQS design value calculations in advance of the 2015 ozone NAAQS final rule, the fact that the EPA has not at this point expressly codified this practice in regulatory provisions for PM_{2.5} does not prevent the EPA from combining PM_{2.5} data for relocated monitors in line with its longstanding practice and as allowed under 40 CFR 58.14(c)(6).

To summarize our response to the commenter’s first point challenging our use of data from relocated monitors, in order to locate a site that constituted a “nearby location with the same scale of representation” under §58.14(c)(6), Pinal County and the EPA engaged in a cooperative multi-year process to review alternative locations and relocate the Cowtown PM_{2.5} SLAMS monitoring site due to logistical problems beyond the control of the State or the District. Pinal County and the EPA analyzed the data from candidate locations to determine if the proposed monitoring site locations met the applicable system modification requirements in 40 CFR 58.14 for monitoring site relocation. Specifically, based on an assessment of PM_{2.5} concentrations (which concurrent ambient monitoring demonstrated to track closely), land use, and nearby sources, the EPA approved the relocation of the Cowtown PM_{2.5} SLAMS monitoring site to the new Hidden Valley location. As noted in the EPA’s Relocation Approval Letter, the data from the Cowtown and Hidden Valley monitoring site locations are suitable for combination to form one continuous data record for design value calculations. This approach is both authorized by the EPA’s monitoring regulations, and consistent with the EPA’s longstanding

²⁵ 79 FR 75234, 75352 (December 17, 2014).

practice. Consequently, the 2015-2017 design value the EPA used for this determination of attainment is consistent with Federal regulations concerning monitor relocations and the EPA's past policy and precedent for combining monitoring site data when computing a design value in such circumstances.

The commenter's second argument, that "[f]or a combined site data record, monitors have to be [collocated]," is inapposite. The definition of "combined site data record," given in 40 CFR part 50, appendix N, section 1.0(c) is "the data set used for performing calculations in appendix N. It represents data for the primary monitors augmented with data from collocated monitors...." Although this provision makes clear that data from collocated monitors may be used to augment data from primary monitors, it does not prohibit the combination of data from a primary monitor, before and after it is relocated. Accordingly, the EPA does not agree that the regulation defining "combined site data record" indicates that the proposed determination of attainment was inappropriate.

Comment #2: The CBD writes that the 98th percentile value for the 2016-2018 period is above the NAAQS. The CBD suggests that this indicates three things: first, compared to the 2016-2018 Hidden Valley monitor's annual concentration, the 2015 Cowntown monitor's annual concentration is so low as to suggest that it is not representative of the Cowntown monitoring site;²⁶ second, the area has a PM_{2.5} pollution problem, as evidenced by the fact that it is violating the NAAQS based on 2018 data; and third, over 2016-2018, the Hidden Valley monitoring site concentration values are trending upward.

²⁶ The comment states that "the Cowntown site, which had a 98th percentile in 2015 of 22.6...is not representative of the Cowntown site." The comment is unclear. The EPA infers that the commenter is indicating one of three things: (1) that the 22.6 Cowntown value in 2015 is not indicative of long-term conditions at the Cowntown site, (2) that the Cowntown site is not representative of the Hidden Valley site, or (3) that the Hidden Valley site is not representative of the Cowntown site.

Response #2: In this notice, the EPA is acting pursuant to its statutory obligation to “[w]ithin 6 months following the applicable attainment date for a PM₁₀ [or PM_{2.5}] nonattainment area...determine whether the area attained the standard by that date.”²⁷ As explained above, and in our proposal, the attainment date for the West Central Pinal County PM_{2.5} nonattainment area is December 31, 2017.²⁸ The statutory requirement to determine whether the area has attained “by that date” sets the timeframe for the EPA’s analysis. The Act requires the EPA to determine whether the West Central Pinal County PM_{2.5} nonattainment area attained the standard by December 31, 2017. Accordingly, to the extent that CBD’s comment suggests that the EPA must evaluate monitoring data that was collected subsequent to the applicable attainment date, the EPA disagrees. The EPA will continue to review data for 2018 and subsequent years, but these data are outside the scope of the present action.

The CBD’s comment regarding whether the Cowtown site is “representative” is unclear. To the extent that CBD’s comment argues that the 2018 data from Hidden Valley site indicates that the 2015 data from the Cowtown site is not representative of the Cowtown site and ambient air quality at that site, this statement is unsubstantiated. The fact that the 2015 Cowtown design value is lower than the 2016, 2017, and 2018 measurements at Hidden Valley does not mean that the 2015 Cowtown data is not representative of the Cowtown site and ambient air quality at that location, as measured in 2015. The State and the EPA evaluated the respective monitor locations in 2015 and 2018 as part of the annual monitoring network review process, and both were

²⁷ 42 U.S.C. 7513(b)(2).

²⁸ For an area classified as Moderate under the Clean Air Act (CAA), such as the West Central Pinal County PM_{2.5} nonattainment area, section 188(c) states that the statutory attainment date is “as expeditiously as practicable, but no later than the end of the sixth calendar year after the area’s designation as nonattainment.” Therefore, the applicable attainment date for West Central Pinal County, designated nonattainment in 2011 and classified as Moderate in 2014, is December 31, 2017. 79 FR 31566, 31569, fn 5.

consistent with applicable regulatory siting requirements.²⁹ Some annual variation in monitor data is not particularly unusual for a 24-hour NAAQS and does not automatically call into question the validity of a monitor location. Absent some indication of a technical problem with the Cowtown monitor, which the commenter does not suggest, the 2015 data collected at the Cowtown site is representative of the ambient PM_{2.5} concentrations at the Cowtown site in 2015.

To the extent that CBD's comment argues that the 2018 data and CBD's calculated 2016-2018 design value indicate that the Cowtown site is not representative of the Hidden Valley site, or vice versa, in our response to Comment #1, we discussed our rationale for approving the relocation of the Cowtown monitoring site and determining a design value using data from both the Cowtown and Hidden Valley monitors. The EPA concluded through that process, involving more than two years of cooperation with the District and substantial concurrent monitoring at the Cowtown and Hidden Valley sites, followed by a public notice and comment period, that the Hidden Valley site was a "nearby location with the same scale of representation" as the Cowtown site.³⁰ That analysis demonstrated, based on almost a year of concurrent sampling, from June 2014 to June 2015, that the 98th percentile PM_{2.5} concentration between the two sites tracked closely.³¹ Moreover, the EPA's relocation analysis included an investigation of the land use, and nearby sources surrounding the two sites, and concluded that they were similar.³² In light of the substantial concurrent monitoring data and additional analysis completed by the EPA, the commenter's suggestion that a cross-year comparison of data streams from different locations

²⁹ See Correspondence dated October 27, 2015, from Gretchen Busterud, EPA-Region IX, to Michael Sundblom, PCAQCD; and, correspondence dated October 30, 2018, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Michael Sundblom, Director, Pinal County Air Quality Control District.

³⁰ See 40 CFR 58.14(c)(6), Relocation Approval Letter.

³¹ In fact, over the concurrent monitoring period, the 98th percentile value (the value used in design value calculations for the 24-hour NAAQS) for the Hidden Valley monitor was slightly higher than the value for the Cowtown monitor, suggesting that the change from the Cowtown site to the Hidden Valley site may lead to a higher design value for the 24-hour PM_{2.5} NAAQS.

³² Relocation Approval Letter.

shows that one monitoring site is either not representative of the other, or not representative of ambient PM_{2.5} concentrations at the time they were observed, is not persuasive. In general, pollution levels can exhibit annual variation, with particulate matter pollution in arid regions showing a strong dependency on variable factors such as variations in levels of local and/or regional anthropogenic emissions, the effectiveness of existing local measures, and meteorology. Considering these varying factors, a simple cross-year comparison of the monitoring data at each location does not establish the comparability of the two sites and is not a useful means of determining that the different monitor locations are validly measuring ambient PM_{2.5} concentrations accurately. Accordingly, the EPA disagrees with the commenter that the 2018 monitoring data, and any design value calculations stemming from it, indicate that the 2015 Cowtown data are not representative of ambient PM_{2.5} concentrations in 2015, or that the Cowtown and Hidden Valley sites are not sufficiently representative of each other, and the ambient PM_{2.5} concentrations at these sites.

The CBD's remaining comments, that the 2018 data shows that the West Central Pinal County nonattainment area has a pollution problem and that it shows an upward trend over time, address issues that are outside the scope of the present action. As explained above, the statutory timeframe for the EPA's analysis in this determination of attainment ends at the applicable attainment date of December 31, 2017. Although the EPA may consider the more recent air quality monitoring data after this date in future actions, it does not bear on the EPA's statutory obligation under 42 U.S.C. 7513(b)(2) to determine whether the West Central Pinal County nonattainment area has attained the standard "by that date."³³ Accordingly, the EPA disagrees with the commenter that the EPA should determine that the West Central Pinal County

³³ 42 U.S.C. 7513(b)(2).

nonattainment area did not attain the 2006 24-hour PM_{2.5} NAAQS by its December 31, 2017 attainment date because of monitoring data from 2018.

III. Final Action

For the reasons discussed in our proposed action and in this final rule, under section 188(b)(2) of the CAA, the EPA is taking final action to determine that the West Central Pinal County Moderate nonattainment area attained the 2006 24-hour PM_{2.5} NAAQS by its applicable attainment date, December 31, 2017. Our determination of attainment is based on complete, quality-assured and certified PM_{2.5} monitoring data for the appropriate three-year period, 2015-2017.

Once effective, this action satisfies the EPA's obligation pursuant to CAA section 188(b)(2) to determine whether this area attained the standards by the applicable attainment date. This determination of attainment does not constitute a redesignation to attainment. Rather, redesignations require states to meet several statutory criteria in CAA section 107(d)(3), including EPA approval of a state plan demonstrating maintenance of the air quality standards for 10 years after redesignation.

IV. Statutory and Executive Order Reviews

This final action determines that West Central Pinal County has met the 2006 24-hour PM_{2.5} NAAQS as a statement of fact according to regulations and requirements discussed in this action and in the prior proposal. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not expected to be an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and,
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does not have tribal implications as specified in Executive Order 13175. No tribal areas are located within the West Central Pinal County PM_{2.5} nonattainment area. The

CAA and the Tribal Authority Rule establish the relationship of the Federal Government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this action.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review, does not extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Fine particulate matter, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Reporting and recordkeeping requirements, Sulfur dioxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 17, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D-Arizona

2. Section 52.131 is amended by adding paragraph (d) to read as follows:

§ 52.131 Control Strategy and regulations: Fine Particle Matter.

* * * * *

(d) *Determination of attainment.* Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, the EPA has determined that, based on 2015 to 2017 ambient air quality data, the West Central Pinal County, AZ PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2017. Therefore, the EPA has met the requirement pursuant to CAA section 188(b)(2) to determine whether the area attained the standard. The EPA also has determined that the West Central Pinal County, AZ nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 188(b)(2).

[FR Doc. 2019-21206 Filed: 10/2/2019 8:45 am; Publication Date: 10/3/2019]